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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,771	11/09/2001	Akito Nakatsuka	723-1211	5627
27562	7590	01/25/2005	EXAMINER	
NIXON & VANDERHYE, P.C. 1100 N. GLEBE ROAD 8TH FLOOR ARLINGTON, VA 22201			HOTALING, JOHN M	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/986,771

Applicant(s)

NAKATSUKA ET AL.

Examiner

John M Hotaling II

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-6, 8-14, 16-27 and 38-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 7, 15 and 28-37 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

This application contains claims directed to the following patentably distinct species of the claimed invention: a game synchronization method between a plurality of networked game machines as shown Fig. 12, selecting music data in response to game synchronization between a plurality of game machines as shown in Fig. 13.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Examiner acknowledges receipt of amendment on 04/01/04 in response to a restriction requirement. However, Applicant has not provided a proper response to the restriction requirement in that, Applicant stated that both species were provided in the same claims. Applicant did not properly differentiate the species requirement, however it is understood by Examiner that Applicant elected the species of Figure 12. Therefore, Examiner believes that claims 1-6, 8-11, 12-14, and 16-26 should be examined, and claims 7 and 15 are withdrawn from examination as directed selecting music data in response to game synchronization.

With respect to the added claims the examiner contends that claims 28-37 are related to the non-elected species and therefore are withdrawn from consideration based on the prior election of species.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-14, 16-27 and 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,371,850 to Sonoda in view of US Patent 6,315,668

to Metke et al. Sonoda describes a system and method for providing a competitive video game conducted between characters at networked game units (2:53-64). The system uses a plurality of interconnected game units, wherein each game unit has a display screen and means for a player to control actions of an on screen game character (2:65-3:13). The system communication interface provides data sharing between game units, wherein a first set of data is associated with a first game machine and a second set of data is associated with a second game machine. During competition conditions the game data will be synchronized between the game units to allow for proper game play (3:14-47). The game units also have determination means for determining awarded game points earned during the game competition (3:48-67). In one embodiment the competition game is a fighting game wherein player timing within predetermined conditions determines game outcomes (10:6-19). Column 10:33-40 discloses that the game machine can be one on one, one against several, or several against several. Sonda lacks in disclosing all of the specific timing data. In an analogous multiplayer system for networking games all of the specific timing data is disclosed in columns 1-9. specifically column 1 disclose game synchronization, 2:14-17 discloses networking video games for real time interactive play, 2:40-53 discloses bi-directional exchange of information, 4:41-51 discloses that the game can be any type of game and the game machine can be any type of game machine, Columns 5-9 disclose all of the specific timing data used to exchange information. One would be motivated to combine the references in order to expand on the synchronization of the video game units as disclosed in Sonda 3:40-46. Therefore it would be obvious to one of ordinary

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skill in the art to use the game system of Sonda with the synchronization and timing data disclosed in Metke in order to transmit proper data to each game machine.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

With respect to the applicants argument that the reference does not teach a group participation game please see the rejection above where it is clearly taught.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Okano et al '017, Kurosawa et al '186, Ochi et al '939, Devecka '121 are all related to game machines and game networking.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Hotaling II whose telephone number is (571) 272 4437. The examiner can normally be reached on Mon-Thurs 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272 3507. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**JOHN M. HOTALING, II**  
**PRIMARY EXAMINER**

January 24, 2005

